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The Great and popular
OBJECTION
Against the *Repeal* of the
Penal Laws and Tests
BRIEFLY
Stated & Consider'd,

W H I C H
May serve for Answer to several late PAM-
PHLETS upon that Subject

By a Friend to Liberty for Liberties sake



If the Consequences that are imagin'd to follow the *Repeal* of the *Penal Statutes* and *Tests* (and which so many give for the Reason of their dislike to the Liberty that is sought by it) were indeed so *Terrible* as they are industriously represented, I should readily fall in with the common Jealousie, and help to augment the number of those that are for their Continuance; but when I consider how long our Government was *Happy* without Them, how much of *Hear and Partiality* prevail'd in their Constitution, and how *troublesome* and *impracticable* their Execution are, and that, in our present Circumstances, They appear a plain *Barriere* to our Happiness, instead of a *Bulwark* to our Religion, I cannot but lament the misfortune of the *Publick*, that those Gentlemen are yet under the fatal mistake of thinking Them necessary to our Safety, That with more Reason and Charity, in my opinion, should Endeavour to save us from the Inconveniences of them.

For the Question being gain'd against *Coercion* in Religion, and the impieſy and impolicy of Persecution, agreed on all Hands, all that is ſaid by the moſt averse to the extent of the Repeal desired, illues here, *If the Papists ſhould happen to have Power or Ease, they are ſure to uſe it to the Prejudice of the Reſt, and therefore it is the Interest of the reſt to oppoſe all their attempts to get it.* The Consequence of which is this, *It were better the Power of Persecution reſted where it is, then to come into hands that would uſe it more Rigorouſly.* I ſay, All Arts and Rhetorical Declaſations ſet aside, This is the *Center and Substance* of all that's ſaid, by Any Body, againſt the Repeal of the *Penal Laws*, and more eſpecially the *Teſts*: And to this I would moſtely offer what follows.

I can by no means imagin there ſhould be ſo much *Danger* where there is ſo little *Truſt*: indeed none: And where one does not *Truſt* one cannot be *Deceived*: Now there is no *Truſt*, where there is a *Law* that puts all *Parties* out of the *Power* of one another: For therefore is a *Law* desired, that the *hazard* of *Truſting* may be be out of Doors: And as this *Law* may be fram'd, I humbly conceive, it will not be iſpoſſible to ſecure every Party from the bigotry of the Reſt, elſe, I muſt acknowledge, nothing will ſave us from the miſchief of *Relapses*. And whatever may be ſaid againſt a Legal Security now, is as strong and reasonable againſt the hopes of any, who ever has the *Chair*: For *Ambition*, we ſee, is but too apt to creep into all *Parties*, and *Worldly Dominion* has been an old and powerful *Bate*: If *Law* cannot ſecure us againſt it, we ſhall ever be to ſeek for the assurance we deſire in this World. It will yet be ſaid, *That the beſt Law Men can make, is nothing without Execution, and That being in the Power of Thoſe whose Principles or Interests may lead them to Evade or Pervert it, the Inſcurity is the ſame;* yet with their leave that think ſo, it is one thing to diſpence with a *Penal Law* againſt a thing, not evil in it ſelf, and another to violate a *Law* of common Right and Safety, which is evil in it ſelf; for this were both to *Repeal* and *Make Laws without a Parliament*, which the *Judges of no Raign* have ever attempted to deliver for *Law*.

If the *Law propos'd*, Repeal *Penal Laws* for Religion (and ſurely 'tis propos'd for that end) the Prince of himſelf *cannot Enact a Penal Law to hurt any body*, whatever be his Religion, and we are ſo far ſafe from the *Miſchief* of Perſecution, tho our ſecurity went no farther. But that we ſhould be leſſafe, because the King we ſo much Fear, is ready to *Conſent to a G R E A T C H A R T E R*, for *Liberty of Conſcience*, by which it ſhall be *Declared the R I G H T of Mankind to make a free and open choice and profeſſion of Faith and Worſhip towards G O D*, and that any Constraint or Interruption upon that Freedom, is *Impiety, and an Evil in it ſelf*, and that *Law*, therefore *Indiſpensable*, Is, I muſt confeſſ, a Notion very Extraordinary. However, It is not hard to Execute a *Law*, when it is beſt Executed by *doing nothing*, for letting Men alone complies beſt with ſuch an One, and the Common *Law* ſecures them, as well as this, from thoſe that meddle with them.

I know it is further Objected, *That tho' this were done it would not rest here, A Parliament might quickly be Packt to overthrow this Establishment, and then we shoud be all Ruin'd; for we shoud not only have Laws of the severest Nature, but force to execute them.* But as Grave as the Objection looks, permit me to say, there is more of Art than Truth or Force in it: For don't we see that *Wagers* are every where laying by the present Enemies of Liberty, *That the King can't, even with the help of his Dissenters, get a Parliament that will Repeal the Penal Laws and Tests,* and yet that they should pretend to fear he may get One to Repeal Liberty of Conscience, and Enact the Bloodiest Laws in lieu of it (to which to be sure the Dissenters will never assent) is a contradiction, like that of *Magnifying the Prerogative, and Rayling at the Declaration, Crying down Common Wealths Men, and Opposing the Monarchy constantly with their Arguments; Fighting against the distinction of the Natural and Political Capacity of the King, and making it every day to serve their own turn, and upon the worst terms too, Persecution,* I mean. But waving the *Humour*, let us examine the *Fear*: In my opinion 'tis Groundless; for since their Master-piece, the *Letter to a Dissenter* tells us, *That there can be no danger of the Bet, where the Odds are so great as Two Hundred to One,* we must conclude that Objection is of no weight against our Liberty: For Number being the *Natural Power* of a Kingdom, the *Artificial* (which is the Executive part of the *Government*) must needs move heavily and *dangerously* when it works against it.

But if a *Law* be no security, because of the fear of a Packt Parliament, and *Force* to back it, what security, after all, can the *Penal Statutes and Tests* be? are they any more then *Law*? If it be said, they *cantion and awe the Roman Catholicks.* I say the *Violation* of a Great Charter for Liberty of Conscience will do it much more, because the Penalty may be *Greater, and better fix'd and applied.* And since we only fear the *Repeal* of the One by a Packt Parliament, as well as the Other, the Authority which abolishes either, is *equally Invalid*, and therefore the *Cantion and Fear of Violating the one, must needs be as Great as of Overthrowing the other..*

This would be less difficult to us to apprehend, If we made the equal Reflections that become our present Condition. We look on *France* till we frighten our selves from the best means of our worldly Happiness, but will not look at home upon greater Cruelties, if we consider Theirs were exercised against those of another Religion, but Ours upon the People of our own; tho when we observe their Conduct elsewhere, it is easie to see, it must have something very particular in it. But at the same time we will take no notice of the greatest Tranquility in *Germany* and *Switzerland* under a *compleat Liberty.*

Is this any thing but the *Fruit of Law, The Agreement of Princes and States, The Great Charter of those Countries inviolably kept these forty years, The Thing his Majesty, with so much Zeal and Goodness presses to establish in his Dominions?* Why then may not that be done here that has been so happily acted elsewhere?

Are our Papists and Protestants Worse here then there? Or are our Differences greater? Or are our Numbers more dangerously unequal, that we dare not trust a Law that others in our very Circumstances are so happy under? They don't only endure one anothers Religion, but *take their Turns the same Days in the same Churches or Places for Divine Worship*; and will not the same Kingdoms serve us? we must then have the worst of Natures, or be the worse for our Religion. And tho many good reasons have been given, and may be elsewhere in evidence of this Notion, I will venture to offer a few at this time that never saw Light yet, that I know of, and which may happen to give some, to those that labour under the disbelief of it.

I say then, a GREAT CHARTER for *Liberty of Conscience*, to be made and kept, is not only the true Interest of the *Roman Catholicks*, but they think so, because they *must* think so: For if the Destruction of Protestantancy, by a way of Violence, had been their Project, as much as it is our Fear, they had but one way in the World to have brought it to pass, and that was, *to have made the utmost use of the Church of Englands Penal Laws, which they found ready to their Hands, for the Destruction of the Protestant Dissenters, and to which she could not refuse her assistance, upon her principles of Obedience, if there were no Inclination left in her to that Fierce and Inhumane chace*. By this, one Party of Protestants, had been easily made the Means of the others Extirpation, and how far *Pleasures, Honours, Offices and Fear* would have gone to have made an entire Conquest, easie upon her, is not the hardest thing in the World to apprehend, when the Bodies of her Dissenters had been thus cruelly dissolved by her. And if this have any sense in it, we must conclude, that delivering one Party of Protestants from the Rage and Power of the other, cannot be a way to bring in Popery. I own, it may affect the present Ecclesiastical Policy of the Church of England, but I never took that for Protestantancy: On the contrary, it has evidently weaken'd the better part of the Protestant Interest in General, in these Kingdoms, ever since the Reformation. But besides this, 'tis one thing to Constrain a Law from the Prince, and another to have it offer'd by the Prince: The one, to be sure, he thinks against his Interest, and the other he takes to be as certainly for it. And if he thinks it is his Interest to preserve such a Law, we are sure of our Safety by it. That which moves him to it, must oblige him to maintain it; and if he does not heartily intend to support this Liberty, his giving it, must needs increase the Power and Interest he would suppose: An Error too gross to be made with so much Preparation and Art. Nor is this all, in my opinion it is much more reasonable to believe that a Law for Liberty of Conscience should perserve us against the thing we apprehend so much, viz. Popery, because 'tis easier to fall from one Extream to another, then from a Mean to a Extream: And 'tis certain, there are more Parties concern'd to support such a Law for Liberty, then to maintain those of Severity; for the Church of England only appears to uphold these, but all Parties besides agree to maintain That. And if it was the Interest of the *Roman Catholicks* to divide the Dissenters,

ters from the Church of England, to be sure they cannot think it safe to unite Them : They have divided Them by the Liberty, But any attempts to take it away w^t infallibly joyn them. And when I consider how much more the Roman Catholicks will in all probability want Liberty in after Raigas, then the Dissenters in this, I am also led to Conclude, that they are not so secure in the *Repeal* of the Penal Laws and Tests themselves, as in their own *Moderation* in the use of the Liberty that follows : For a Parliament in after Raigas may easily return them, and worse, if that can be, and will certainly do it, if they use their present opportunity too *Eagerly* and *Partially* ; but no Parliament will ever think so harsh a Constitution fit to be reviv'd, when the Moderation of the Gentlemen against whom it was made, hath prov'd it Useless, Unreasonable and Unsafe. This consideration is a reciprocal Caution to Us, not to refuse them the Rights of English Men, and to Them, not to mis-use them. And since hitherto we seem not so angry at the Liberty, as at the *Manner* of its being granted ; if we are sincere in this, we cannot refuse the King in our *own way*, I mean, by Law. And in my Opinion, 'tis a point gain'd, not to have this easie *Precarious* from the Crown, as well as that it shews the Kings *sincerity* beyond a doubt, that he is solicitous to assure so great a Good to us in our *own method*.

Let it not then be thought a Crime, that he does so, or that he takes the next and plainest ways to discriminate Persons for that end ; for if the Consequence of his Endeavours were to ruin others for a Party, it might be thought *Packing* indeed ; but when i is to open Enclosures, and Level Interests, and by Law, to secure Them from the *Ambition* of one another, it seems to me to be *Unpacking*, for the *Good of the Whole*, that which hath been so long Packt for the sole *Good of a Party*. And truly, if we will yet scruple the Sincerity of the Prince, I know not an easier and better way to assure our selves, then by chusing such Persons to serve in Parliament, whose Love and Sincerity for this Liberty we have the greatest Confidence in ; For as that will certainly help to facilitate the Work, so where two Parties seem to conspire one end, nothing discovers the Insincerity of one side, like the Truth and Integrity of the other in persuing it. Let us not then dislike Liberty in the Kings way, and refuse it in our own, because he would make it his ; for that would justly question our Truth and Charity, without which, our pretence of Religion or Safety is vain.

We have heard it said, that the Persecution of the last Reign came from the Papists, and therefore we cannot expect they should be sincere for Liberty in this ; but if that were true, (tho it could not be the Roman Catholicks that forc'd the late King to cancel his Declaration for Liberty, or that couz'd the Dissenters of a Law for it) yet there is this use to be made of the Trick, that now the Roman Catholicks are for Liberty, the Church of England cannot, with any credit, be against it.

On the contrary, it shews, if they did move those Storms of Persecution, it was to constrain the Dissenters to joyn with them in the *Repeal* of the Laws that rais'd Them, that so they might be allow'd to share in the Calm : People are most apt

apt to see the Necessity and Benefit of Liberty by the want of it.

It is a Misfortune to be lamented, the *Church of England* should always be against Liberty, when the *Court* is for it, because the *Court*, in her opinion, is not Sincere; when at the same time, she knows, it is at no time to be had without them: A way for poor Dissenters, never to hope for such a thing as Liberty of Conscience at her hands: For without offering any Violence to the rules of Charity, she seems to excuse her unwillingness by their *Insincerity*. But with her favour, They must be sincere when their Interest will have them so. And tho it is Imagin'd the Dissenter has no other bottom for his Confidence and Conjunction then the *Roman Catholicks Faith and Truth*, 'tis too mean an Insinuation against his understanding, that I assure that Author is yet Good and Jealous enough, not to depend upon either the *Council of Trent*, or the *Thirty Nine Articles* for his safety. By no means; those *Spiritual Mortgages*, Folks give of their Souls, are too uncertain Securities about Worldly Matters, unless Men had, at least, a better Practice. Nothing, hum-anely speaking, fixes any Man like his Interest; And tho this Agreement were only *Hobson's choice* in *Roman Catholick* and *Dissenter*, the security is not the less: For what-ever be the Morality of any Party, if I am sure of them by the side of Interest and Necessity, I will never seek or value an *Ensurance* by Oaths and Tests. Interest is the choice Men Naturally make, and Necessity compels Submission from the unhappy Subjects of her Power.

And tho some do Insinuate that better terms are to be hop'd from the Church of *England* hereafter, then now from the *Roman Catholick*, I take leave to say, that it is an *unwarrantable use* of Providence, for them to neglect the present *Certain Overtures* (tho they were the effects of Necessity) out of hopes the Church of *England* will use them better, when she has Power, not to do it, and not to care: when all Parties show their abuse of Power in their turns, 'tis reason enough to embrace the Benefit of Necessity from the first that offers: And nothing else, I fear, moves the Church of *England* to promise; And if so great a number may lie under such a Necessity, a less number cannot but be under a greater, and that I take to be the *Roman Catholicks Case*, and our *Assurance*.

If the Church of *England* could secure the Dissenters without that compliance she fears, 'twere something, if not, they are under an equal necessity to accept what the *Roman Catholicks* are under to offer: And for this reason, I cannot but think her joyning in the Liberty more reasonable, then their refusing it for her sake. If she affects an Union, why should she uphold the *Means of Division*? Cought not the Dissenters to suspect her Integrity, in refusing a good Understanding, in the very way that must save those she would gain? And since she is sure They wont turn *Papists*, how does she lose Them in that way, in which she can only pretend to have Them, viz. as *Protestants*; for otherwise they will as little conform to her. And If the Price of her Good Will must be to uphold the *Brand* of her Conduct, and *Means* of their own Ruin, It is what they can never give, and she in Conscience and Wisdom should never ask.

And

And what ever is suggested, it is too unwarily thought of any, that the Dissenters intend only their security against the Power of the Church of England, 'tis against the Spirit of Persecution in all Churches, they must all seek to be safe; that which soever of them happens to have the Government, the Rest may be secure under it; Else, 'tis but shutting one Door against an Evil, and opening another to let it in. If she will please but to tell me what way she can secure the Dissenters against her own Ambition, when one of her Communion Ascends the Throne, I will undertake to tell her, how She and the Dissenters may be safe from the Danger of Popery in the Reign of a King of that Religion. For the Spirit of Persecution being the same every where, it must have the same Remedy. She can't think we ought to Trust Her, That won't Trust, and That makes Trusting Dangerous.

And what-ever the Gentlemen of her Communion are pleas'd to suggest of the present good understanding, between the Roman Catholicks and Dissenters, to blow their interest with the People, Men must be greatly Impos'd upon, to Imagine the present Affinity between them, can regard any thing but their common Safety; and common Danger makes that every where reasonable and necessary. If this were not the case, I should hold my self concern'd to act another Part in this affair; and if this be the case, it plainly answers all the Jealousie and Objection of the Times: For 'tis as lawful for them to joyn in this as in any Society of Trade, and more requisite. I say, It can be no just Reflection from the Church of England, when they must be ill read, that don't know, that she is the Half-way House between the two Dissenters, and that the Protestant Dissenter is a refine upon her, as she is upon the Church of Rome. So that tho' it be true that they joyn with the Papists, it is as true that it is not with Popery, but for Liberty, which the same Author tells us, is such a contradiction to Infallibility, which is his dangerous Popery: Tho' I must tell him, I think it a greater to Persecute People upon a professed fallible Principle. Let it satisfie that Gentleman and his Followers, whose main drift, is Rallying Dissenters for relying on Romish Faith for security, that tho' They joyn with Roman Catholicks to get Liberty, They will trust Them, and every Body else, as little as they can to keep it, and less joyn with them to take it away. On the contrary, in case of such attempts, 'tis reasonable to believe they will sooner unite with the Church of England to Preserve, what they now so freely oppose Her to obtain. But it may be said, It will then be too late, and therefore now too dangerous, to give that Interest, in the mean while, so much Play and Progress. This were an Hazard indeed, if the Roman Catholicks could do any thing then, that they cannot do now, or if the Dissenters were to be less Numerous, less Sensitive, or less Free and Able to resent it. I cannot see how the Roman Catholicks can be in a better Condition to Hurt us, if the Dissenters are not in a worse to Help us. Certainly their Number must have the odds.

On the other hand, the Dissenters under Persecution, can do nothing, and while the Liberty is Precarious they dare do nothing; so that the way to render

them

them useful to oppose the Violence fear'd, is to make their Interest in the Liberty Legal, as well as that a *Legal Freedom* is the best way to prevent all violent attempts in the *Roman Catholicks*. For when the Law supports their Joynt Interest, that will naturally joyn and lead Them to maintain the Law that defends it. I shall be heartily sorry if the Church of *England* cannot tell how to venture her self with those under Liberty, who have liv'd so well with her *under her Persecution*: Tho, as I have said before, there is no *Trust* in the case, since, therefore, a *Law* is desired, that we may not rely on so frail a Security: And where a *Law* puts all Parties upoa one Bottom, I cannot help thinking all Parties are oblig'd in *Example* and *Interest* carefully to preserve it. And if we would but reflect how much more *Law* in all Ages hath preserv'd Mankind then *Force*, we would less argue the Insecurity of *Law*; but 'tis utterly Inconsistant at a time, when we plead the *Almighty's* present Laws for our Safety.

In short, If she only seeks to be Safe, let her not refuse the Security that Others are ready to take, and if she desires more, 'tis an unhappy Instance of her love to Dominion, and they can never be safe that Grant it. Let her not then be *Fond* but *Wise*; and remember, that the *Security* is not destroy'd, but *Chang'd* and *Enlarg'd*: For from a *Single*, it becomes more then a *Double Bond*, and They that reject such a *Security*, cannot be thought sincere in asking of any. But, be that as it will, If we can but once see A MAGN A C H A R T A for *Liberty* of *Conscience*, Establish'd in these Kingdoms by the wisdom of a Parliament. They will be very *Hardy*, indeed, who Dare, at any time, Attempt to *Shake her*. That has the *Jealousie*, *Union* and *Resolution* of so many Great, Serious and Wealthy Interests to support It.

I will not say, what this *Charter* shall be, for it does not become me, nor is it yet time; but I dare say, that it may be, and in such terms too, as all Parties shall find their *Account*: And unless that be the Reason why any will oppose it. It can neither misse to be, nor to be kept; and if such a *Dissenter* be to be found to this common Good, his opposition makes him a *Common Enemy*. I say, nothing can oppose such a *Charter*, but State Religion, and that which can Govern the rest, will Hazard the rest. A National Religion by *Law*, where it is not fixt by Number and Inclination, is a *National Nuisance*; for it will ever be matter of Strife. If she seeks to be Safe, but not to Rule, that which preserves the rest secures her; If more is expected, 'tis less reasonable, in my opinion, for the Rest to Sacrifice their Safety to her Authority, then only to subject her Rule to their Security.

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